REMARKS

This responds to the Office Action dated on January 28, 2008.

Claims 1, 20, and 27 are amended. Claims 1-10 and 20-29 are now pending in this application.

Claim Objections

Claim 27 was objected to for lacking antecedent basis for the implantable processor. Claim 27 has been amended herein in a manner believed to overcome the rejection.

§102 and §103 Rejection of the Claims

Claims 1-3, 5-10, 20-22 and 29 were rejected under 35 U.S.C. § 102(b) for anticipation by Zhou (U.S. Publication 2003/0191403). Claims 4 and 25-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zhou (U.S. Publication 2003/0191403) in view of Jensen (U.S. Patent No. 6,752,765). Claims 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zhou in view of Koh (U.S. Patent No. 7,207,947). The rejections are traversed and reconsideration is respectfully requested.

Independent claims 1 and 20 have been amended herein to include a recitation relating to the generation of an output signal reflective as to how an autonomic tone signal varies with a physical activity level signal. As best understood, the Zhou reference describes a device configured to predict the occurrence of an arrhythmia based upon collected data, where such collected data may include heart rate variability and activity level. In order to accomplish such prediction, the device records the activity levels and heart rate variability present when the onset of an arrhythmia occurs. Although measured activity level and heart rate variability are then used to predict if an arrhythmia is likely to occur, the Zhou reference neither teaches nor suggests the computation of a parameter indicative as to how the activity level varies with heart rate variability. That is, although there is disclosure in Zhou dealing with correlating activity level and heart rate variability with the onset of a cardiac arrhythmia, there is no disclosure relating to discovering how changes in a patient's activity level correlates with changes in the

patient's heart rate variability (or autonomic tone). Furthermore, there is no disclosure relating to the comparison of a parameter indicative as to how activity level varies with heart rate variability to a baseline in order to determine health status.

For the reasons given above and in the response to the prior office action, Applicant believes that claims 1 and 20 are neither anticipated nor rendered obvious by the prior art of record. Furthermore, the recitations of dependent claims 2-20 and 21-29 are neither taught nor suggested by the cited references in the context of their combination with either claim 1 or claim 20. Withdrawal of the rejections is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date June 30, 2008

By /J. Kevin Parker/
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30th day of June, 2008.

Kate Gannon

Name

Signature